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Calendar No. 774

101ST CONGRESS *2d Session*	SENATE	REPORT 101-419

NATIONAL SENIOR OLYMPIC GAMES

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 2398

AUGUST 3 (legislative day, JULY 10), 1990.—Ordered to be printed

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AUGUST 3 (legislative day, JULY 10), 1990.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2398]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2398) to authorize the continuation of the National Senior Olympic Games, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE OF BILL

The bill, S. 2398, as reported, authorizes the United States National Senior Sports Organization (USNSSO) to use the words "Olympic" and "Olympics" to promote national amateur athletic competition among senior citizens and to register "National Senior Olympics" as its word mark under sections 1, 3, and 4 of the Lanham Act (15 U.S.C. 1051, 1053, and 1954).

BACKGROUND AND NEEDS

The USNSSO originally incorporated in 1985 as the United States National Senior Olympics (USNSO), is a national organization created to provide men and women over the age of 55 with a national athletic competition. The USNSO was built on a grass roots foundation of more than 50 local and regional senior athletic and sports organizations throughout the country. Some of these organizations have used the name "Olympics" for more than 20 years as part of their local games. The first national competition for the senior organizations was held in St. Louis, MO, in June 1987, and was called the "National Senior Olympic Games." This even at-

tracted more than 2,500 athletes from 44 States, the District of Columbia, Canada, and Taiwan.

After the conclusion of this event, the United States Olympic Committee (USOC), the governing authority for the U.S. Olympic teams, contacted the USNSO to inform it that the USOC objected to the use of the word "Olympics" in the title of its games or in the name of the organization. The USOC has authority to restrict the use of the name "Olympics" under amendments by the Amateur Sports Act of 1978 (92 Stat. 3045). In provisions added by that Act (36 U.S.C. 380), Congress granted the USOC the exclusive right to regulate all use of the words "Olympics" and "Olympic." This authority was given to assist the USOC in fundraising efforts by preventing dilution of the value of the mark which would result from widespread use.

The Supreme Court upheld the USOC's authority over the use of the Olympic name in *San Francisco Arts and Athletics, Inc.* v. *United States Olympic Committee*, 107 S. Ct. 2971 (1987). In this case, the Court ruled that the First Amendment does not bar Congress from granting trademark protection for what may be considered a generic word because of the history of the word "Olympics," as well as its commercial and promotional value. Moreover, the Court ruled that, by prohibiting the use of one word, Congress and the USOC have not impermissibly limited political speech. Therefore, the USOC appears to have virtually unlimited discretion in deciding who can use the word "Olympics."

Following the decision by the USOC after the June 1987 games, the USOC and the USNSO entered into negotiations over the use of the word "Olympics" by the USNSO. However, the discussions failed to produce any agreement. On March 29, 1988, 18 Members of the Senate wrote to the USOC to encourage them to permit the USNSO to continue to use the name "Olympics." In August 1988, the USOC issued a request for proposals (RFP) to organizations that would be interested in joining the USOC as a member organization whose dedicated purpose would be to promote athletic competition for senior citizens. This RFP stated that the organization chosen to join the USOC would be permitted to use the Olympic name for a national athletic competition. When the USNSO was selected in November 1988, the USOC reversed that prior position, stating that no use of the Olympic name would be permitted.

USNSO joined the USOC and subsequently changed its organizational name to the United States National Senior Sports Organization. The USNSSO, however, has continued to seek the right to use the Olympic name through negotiations with the USOC.

The USOC has permitted use of the Olympic name by the Junior Olympics for young Americans and the Special Olympics for mentally disabled Americans. This use is consistent with the intent of the Amateur Sports Act of 1978. Members of these groups are unable to compete in the international Olympic games. Moreover, one of the enumerated purposes of the USOC under the law is to promote programs and competition for handicapped individuals. Therefore, the USOC has formally agreed to allow the Special Olympics to use the name "Olympics." In the case of the Junior Olympics, the right to use the name was made part of the Olympic Charter, and this was protected under the Amateur Sports Act of

1978. Similarly, senior citizens are unable to participate in international Olympic competition.

The Committee notes that the USNSSO and the USOC have engaged in negotiations up to the time of the Committee's consideration of S. 2398. According to testimony received by the Committee at a June 22 hearing, the two parties appeared to be close to an agreement on the USNSSO's continued use of the Olympic name.

Legislative History

On April 3, 1990, Senator Danforth introduced S. 2398 and S. 2399, a related bill which authorizes the USNSSO to register "National Senior Olympics" as its word mark under the trademark laws. Senators McCain, Lott, Packwood, Burns, Pressler, and Bond cosponsored these bills. Senator Hollings cosponsored S. 2398.

On June 22, 1990, the Full Committee held a hearing on both bills. On June 27, 1990, in open executive session, the Committee favorably reported an amendment in the nature of a substitute to S. 2398 by a voice vote. This substitute added to the original text of S. 2398 the trademark provision of S. 2399 and a new section which provides that an additional object and purpose of the USOC shall be to promote amateur athletic competition for senior citizens.

Summary of Major Provisions

The bill as reported:

(1) creates a new purpose for USOC by directing USOC to promote athletic competition for senior citizens;

(2) permits the USNSSO to use the words "Olympic" or "Olympics" in connection with national senior athletic competition; and

(3) allows the USNSSO to register "National Senior Olympics" as its word mark for the purposes of the trademark laws.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 3, 1990.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2398, a bill to authorize the continuation of the National Senior Olympic Games, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 27, 1990. We expect that enactment of this bill would result in no cost or savings to the federal government and in no cost to state and local governments.

S. 2398 would authorize the U.S. National Senior Sports Organization to use the words "Olympic" and "Olympics" for its National Senior Olympics. Allowing this use of a trademark name would not affect the federal budget.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS AFFECTED

The purpose of this legislation is to allow a national amateur athletic competition for senior citizens to continue to use the name "Olympics." This use would affect only the USOC and the USNSSO. Therefore, the number of persons covered should be consistent with the number of people currently involved in athletic competition related to these organizations.

ECONOMIC IMPACT STATEMENT

S. 2398 as reported will have no adverse economic impact on the individuals or organizations that are affected.

PRIVACY

S. 2398 as reported will have no adverse impact on the personal privacy of the individuals or organizations that are affected.

PAPERWORK

S. 2398 as reported establishes no regulations and imposes no reporting requirements at either the State or Federal level on the individuals or organizations that are affected.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section states congressional findings, which are discussed below.

(1) It is in the national interest to promote the health, well-being and fitness of senior citizens.

(2) The National Senior Olympic Games of 1987 and 1989 were successful in furthering the health, well-being, and fitness of senior citizens through the vigorous athletic competition that the games provided. In the 1987 Senior Olympics, 2,500 competitors from 44 States, the District of Columbia, Canada, and Taiwan participated. In the 1989 games, 4,000 athletes from 47 States, the District of Columbia, Canada, England, and Taiwan took part in the competition. This national competition is built on 50 local and regional

Olympic competitions. More than 100,000 senior athletes participate in local and regional Olympic competitions.

(3) Continuation of the National Senior Olympics is consistent with the spirit of the Amateur Sports Act of 1978 and will advance the objectives and purposes of the USOC.

(4) American senior citizens should have the same opportunity to compete in an official Olympic competition as do participants in the Special Olympics and the Junior Olympics. This is true because young athletes who are training to develop into world-class competitors and the mentally disabled are precluded from participation in international Olympic competition, as are senior citizens.

SECTION 2

This section creates a new purpose for the USOC. Under current law, the USOC is directed to develop teams and individuals for international competition and to promote athletic competition for women, the disabled, and minorities. This section directs the USOC to promote athletic competition for senior citizens, in addition to those groups already designated in the statute.

SECTION 3

This section permits the USNSSO to use the words "Olympic" or "Olympics." The statute incorporating the USOC, as amended by the Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), provides that the USOC has exclusive authority to decide who may use the Olympic name and terminology. This section would exempt the USNSSO from the restrictions in the statute in order to permit that organization to use the words "Olympic" and "Olympics" in staging a national senior athletic competition.

This section also permits the USNSSO to register "National Senior Olympics" as its word mark for the purposes of the trademark laws. This provision is necessary because the Olympic Committee held a trademark in the word "Olympics" prior to passage of the Amateur Sports Act of 1978.

Section 45 of the Lanham Act defines a trademark as any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer, merchant or other person to "identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others" (15 U.S.C. 1127). Therefore, even with an exemption from the relevant amendment by the Amateur Sports Act of 1978, the USOC still could preclude use of the Olympic name by the USNSSO in the name of its national athletic competition under the trademark laws unless the USNSSO has authority to register its own trademark. This provision is intended to ensure that the USNSSO would have the authority to use the word mark "National Senior Olympics" for identification of its national athletic games and for all trademark purposes.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

in enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF SEPTEMBER 21, 1950

Section 104 of that Act

SEC. 104. The objects and purposes of the Corporation shall be to—

(1) through (12) * * *

(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals; [and]

(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented[.]; *and*

(15) encourage and provide assistance to amateur athletic programs and competitions for senior citizens.

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